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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

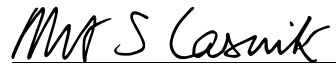
7 RICHARD HENRY MUTCH,)
8)
9 Petitioner,) Case No. C09-1107RSL
10)
11 v.)
12) ORDER OF DISMISSAL
13 SCOTT FRAKES,)
14)
15 Respondent.)
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24 The Court, having reviewed the Report and Recommendation of United States Magistrate
25 Judge James P. Donohue, petitioner's objections thereto, petitioner's motion for an evidentiary
26 hearing, the governing law, and the balance of the record, does hereby find and ORDER:

- 27 (1) The Court adopts the Report and Recommendation;
28 (2) Respondent's motion to dismiss (Dkt. 10) is GRANTED and the habeas petition
29 (Dkt. 5) is DISMISSED without prejudice;
30 (3) Petitioner's motions for release (Dkt. 13) and to appoint counsel (Dkt. 14) are
31 DENIED;
32 (4) Petitioner's motion for an evidentiary hearing (Dkt. 17) is DENIED; and
33 (5) The Clerk of Court is directed to send copies of this Order to petitioner and to

Judge Donohue.

DATED this 22nd day of February, 2010.

A handwritten signature in black ink, appearing to read "Mr S Lasnik", written over a horizontal line.

Robert S. Lasnik
United States District Judge